

**Applicability of Office of Management and Budget (OMB) Cost Circulars
to Fixed Price Contracts**

Purpose:

This instruction sets forth the policy to provide clarification regarding whether OMB cost principles are relevant to the food acquisition costs borne by a food service management company (FSMC) charging a school food authority (SFA) a fixed price per meal for the reimbursable meals and contractually agreed upon meal equivalents served under the contract.

Scope:

Sponsors participating in the School Breakfast Program (SBP) and/or the National School Lunch Program (NSLP).

Description:

Pursuant to 210.19(a)(2), the SFA must ensure that all expenditures from its nonprofit school food service account meet the requirements for allowable costs. To be allowable, the cost must meet OMB cost circular requirements. That said, in a properly procured fixed price contract, the SFA's responsibility for determining allowable contract cost generally does not require applying the OMB cost principles to the contractor's cost underlying the fixed price meal charge. A SFA still has responsibilities under a fixed price per meal FSMC contract to determine that all costs are allowable nonprofit food service account expenditures, but these responsibilities are directed toward ensuring that contract terms and program requirements have been met.

For example, the SFA must determine that the invoice from the FSMC is mathematically correct, i.e., number of meals and meal equivalents billed equals the number of meal and meal equivalents served in the school nutrition programs, the meals met the meal pattern and other contractual requirements, and the meals are billed at the contractual fixed price per meal. SFAs cannot use a fixed price meal contract to pay for otherwise unallowable costs, for example, the cost of lunches that do not meet the meal pattern requirements.

SOURCE: USDA, FOOD AND NUTRITION POLICY MEMORANDUM #05-09, DATED JULY 5, 2005.